

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, February 23, 2012
REGULAR MEETING
7:00 p.m.

A. CALL TO ORDER – 7:00 p.m.

B. PLEDGE OF ALLEGIANCE – Led by Vice Chair Hillgren

C. ROLL CALL

PRESENT: Hillgren, Kramer, Myers, Toerge, and Tucker
ABSENT/UNEXCUSED: Ameri

D. PUBLIC COMMENTS

Chair Toerge invited comments from those in the audience who wished to address the Commission on other than Agenda items.

Jim Mosher commented on the recordings of the proceedings noting that the City keeps them for two years and then they are destroyed. He referenced the requirements of the Brown Act and suggested that the Commission consider keeping them permanently. He reported recently reviewing the City Charter and commented on the Commission's duties to review Public Works projects, opining that the Commission has failed to do so.

Dan Purcell agreed with Mr. Mosher regarding the need for the Commission to consider Public Works projects and commented regarding the role of women on the Commission as well as in other elected positions. He felt women should be represented in the Planning Commission and encouraged the City to promote this.

E. REQUEST FOR CONTINUANCES – None.

F. CONSENT ITEMS

ITEM NO. 1 Minutes of February 9, 2012, Study Session

ACTION: Approve and file.

ITEM NO. 2 Minutes of February 9, 2012

ACTION: Approve and file.

Chair Toerge invited comments from the public on this item.

Jim Mosher provided recommended changes.

Motion made by Commissioner Tucker and seconded by Vice Chair Hillgren, and carried (4 - 0) with Commissioner Kramer abstaining and Commissioner Ameri absent, to approve the minutes of the Study Session and Regular Meeting of February 9, 2012 as corrected.

AYES: Hillgren, Myers, Toerge, and Tucker
NOES: None.
ABSTENTION: Kramer
ABSENT(UNEXCUSED): Ameri

G. PUBLIC HEARING ITEMS

ITEM NO. 3 Zoning Code Amendment Height of Fences, Hedges, Walls, and Retaining Walls (PA2012-018)

ACTION: Continue the item to the March 8, 2012, Planning Commission meeting.

Community Development Director Kimberly Brandt reported that staff is requesting continuance to March 8, 2012, due to the unavailability of a staff member.

Chair Toerge invited comments from the public on this item. There was no response and the public comment period was closed.

Motion made by Vice Chair Hillgren and seconded by Commissioner Tucker, and carried (5 - 0) with Commissioner Ameri absent, to continue the item to the March 8, 2012, Planning Commission meeting.

AYES: Hillgren, Kramer, Myers, Toerge, and Tucker,

NOES: None.

ABSTENTION: None.

ABSENT(UNEXCUSED): Ameri

H. NEW BUSINESS

ITEM NO. 4 General Plan Annual Status Report including Housing Element Report (PA2007-195)

Chair Toerge read title to the aforementioned item and called for a report from staff.

Assistant Planner Melinda Whelan presented details of the report noting highlights of the 2011 calendar year including establishment of neighborhood revitalization action committees for Lido Village, Balboa Village, Corona del Mar entry, and West Newport, completion of Task No. 1 on the General Plan Task List (2008-2014 Housing Element Update) and receipt of finding of compliance from the Department of Housing and Community Development. She reported recommendations from staff and noted that the item will be forward to the City Council and the Office of Planning Research and the Department of Housing and Community Development.

Vice Chair Hillgren referenced the acquisition of open space relative to the acquisition for Newport Banning Ranch being continual but without the identification of funding sources. He inquired regarding active steps taken by the City towards that.

Ms. Whelan reported that the City reviewed acquisition in 2009 but there was no City action taken in 2011.

Commissioner Tucker requested a copy of the General Plan implementation task list.

Vice Chair Hillgren inquired regarding the status of affordable housing units at the Newport Banning Ranch homes development on San Joaquin (Baywood).

Staff reported that there was a termination of the affordable housing covenant for Baywood Apartments.

Vice Chair Hillgren asked how that would impact affordable housing in Newport Beach.

Ms. Brandt reported that staff has identified all units were at risk of being converted into market rate units, noting that staff anticipates the loss of some affordable housing in the City. However, she reported that there are programs in place to counterbalance and make up the difference.

Commissioner Kramer requested a map of the location of affordable housing units throughout the City including historical information.

In response to Commissioner Tucker's inquiry regarding the issuance of tax-exempt bonds to assist affordable housing, Ms. Whelan stated that tax-exempt funding for affordable housing is one tool that a developer can use.

Commissioner Tucker addressed the fifteen (15%) percent affordability requirement and Ms. Whelan stated that it is in the Sub-division, Title 19 code. It was noted that it is a goal relative to the minimum requirement but that there are exceptions. In addition, Commissioner Tucker inquired regarding the affordable housing balance.

Ms. Brandt reported that the balance refers to the in lieu fees that have been paid as opposed to providing for affordable units. She stated there has not been a lot of development activity recently.

Commissioner Kramer asked how the in lieu fees work in terms of a valuation, monetary amount, and how the developer fund works.

Ms. Mulvihill responded the in lieu fee is an opportunity for certain types of development and for the developer to provide in lieu of building affordable housing units. She added that it is calculated based on the cost of the developer to provide them. She referenced a study by staff and offered to provide a copy to the Commission. In addition, she stated that the current in lieu fee is \$20,554 per market rate unit. The funds would go to the City to provide those units as an obligation.

Discussion followed regarding possible future projects. Ms. Brandt reported that someone has approached the City to potentially access those funds and any allocation would require City Council approval with appropriate legal agreements to provide those units within a limited amount of time.

Ms. Whelan added that staff has recently looked into preserving some of the Baywood units with the in lieu fees and concluded that the units would be preserved for only an additional five (5) years. She noted that staff has determined that the funds could be used better for a new project.

Ensuing discussion followed regarding there being no incentive for a developer to build and simply pay the in lieu fees.

Ms. Mulvihill noted that it is something that the City has chosen to offer and ultimately, it is the City that decides whether the in lieu fee is appropriate.

Ms. Brandt reported that there is a threshold of 50 units which determines whether the in lieu fee can be provided or whether there is a need for the preparation of an affordable housing implementation plan. She added that there is a development occurring for the North Newport Center that will provide affordable housing units.

Commissioner Tucker mentioned that there is an appendix to the staff report that is missing.

Ms. Whelan reported that Appendix H4 is in the updated housing element and provides an inventory that focuses on opportunity areas within the City to develop housing. She offered to provide a copy to the Commission.

Commissioner Tucker addressed the density bonuses and incentives.

Ms. Mulvihill reported that it is a requirement of State law.

In response to Commissioner Tucker's inquiry, Ms. Brandt reported that the zoning would be amended to allow the minimum of thirty (30%) percent of housing units for lower income households. She added that this is one of the requirements of the certification of the housing element; to remove any perceived government barriers in the development of affordable housing.

Discussion followed regarding the City's responsibilities relative to providing affordable housing in the City and the staff required to fulfilling those responsibilities. It was noted that all of the listed programs are required to obtain certification of the housing element.

In response to Vice Chair Hillgren's comments, Ms. Brandt reported that there are two components to consider including complying with State law and providing, as a City, housing units that are affordable to all. She noted that there is a genuine interest by the City to provide affordable housing and that the City has considered many ways in which to do that.

Commissioner Kramer inquired regarding the circulation element phases and the synchronization of signals.

Staff reported that most of those phases have been completed and noted that there has been a five (5) year study.

Chair Toerge invited public comments on this item.

Jim Mosher commented on the acquisition of Newport Banning Ranch as permanent open space and noted that it is the task of the City to actively pursue the acquisition of Newport Banning Ranch as permanent open space which can be accomplished by a number of different means. He felt that the City has not been as active as it should have been in performing that task, provided listed options, and pointed out that if the Coastal Commission is going to down scale the proposed project, the value of the property will be considerably less than before. He addressed mitigation fees and diversion of funds to the acquisition of Newport Banning Ranch.

Dr. Jennifer Frutig reported that she has been active in the Newport Beach community for over 20 years and asked for clarification regarding the Newport Banning Ranch developer's access to a fund if they build affordable housing and their expediting entitlement processing.

Ms. Brandt reported that the affordable housing implementation plan that will be a component of the Newport Banning Ranch project will be reviewed and ultimately approved by the City Council and will go onto the Coastal Commission. She added that any type of expedited processing would be spelled out in the affordable housing implementation plan including potential for fee waivers. It will be at the City Council's discretion and the public will have the opportunity to comment at that time. She provided a definition of lower income housing by the State of California noting that low income is less than eighty (80%) percent of the median county income and very low is less than fifty (50%) percent of the median county income.

Steve Ray of the Banning Ranch Conservancy felt that the statement regarding the continual exploration for the acquisition of Newport Banning Ranch and the inability to identify funds is false. He suggested that the City has done nothing toward that effort since 2009 and felt that the language should be changed indicating that the City has not explored any opportunities for the acquisition of Banning Ranch since 2009. He stated support for the concept of affordable housing and felt that between State law and Local law the issue is confusing. He felt in lieu fees are not enough for building affordable housing and that developers are not paying their share and are allowed to build affordable housing off site.

Seeing and hearing no one else wishing to address the Commission, Chair Toerge closed the public comment period for this item.

Commissioner Tucker stated that he did not agree with Mr. Ray's interpretation of the City's role in that the language states that the City should support pursuit of the Newport Banning Ranch acquisition.

Motion made by Commissioner Tucker and seconded by Commissioner Kramer, and carried (5 - 0) with Commissioner Ameri absent, to receive and file the report with no changes.

AYES:	Hillgren, Kramer, Myers, Toerge, and Tucker
NOES:	None.
ABSTENTION:	None.
ABSENT(UNEXCUSED):	Ameri

I. STAFF AND COMMISSIONER ITEMS

ITEM NO. 5 Community Development Director's report.

Ms. Brandt reported that there has been a lot of discussion regarding when the Planning Commission will be reviewing the referral to the Planning Commission by the City Council with respect to the lot merger on Ocean Boulevard, she noted that it will be presented to the Commission at its meeting of March 22, 2012.

ITEM NO. 6 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

Chair Toerge referenced the Charter requirements relative to the Planning Commission reviewing Public Works projects and requested explanation regarding when the projects should be reviewed by the Planning Commission and when they are not.

Ms. Brandt reported that staff would return with a memorandum regarding the item at the next regular meeting of the Planning Commission.

Chair Toerge requested that staff look into repairing Vice Chair Hillgren's microphone.

ITEM NO. 7 Request for excused absences.

Vice Chair Hillgren requested to be excused for the meeting of March 8, 2012.

ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Toerge adjourned the meeting at 7:54 p.m.